

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

VS.

CR. NO. 15-4268 JB

ANGEL DELEON, et al.,

Defendants.

Transcript of excerpts of testimony of

JIMMIE RAE GORDON

May 16, 2018

SANTA FE OFFICE
119 East Marcy, Suite 110
Santa Fe, NM 87501
(505) 989-4949
FAX (505) 843-9492

**BEAN
& ASSOCIATES, Inc.**
PROFESSIONAL COURT
REPORTING SERVICE

MAIN OFFICE
201 Third NW, Suite 1630
Albuquerque, NM 87102
(505) 843-9494
FAX (505) 843-9492
1-800-669-9492
e-mail: info@litsupport.com

1 THE COURT: Do the defendants have their
2 next witness or evidence?

3 MR. COOPER: Yes, Your Honor, the defense
4 would call Jimmie Rae Gordon to the stand.

5 THE COURT: Mr. Gordon, if you'll come up
6 and stand next to the witness box on my right, your
7 left. Before you're seated, my courtroom deputy, Ms.
8 Bevel, will swear you in.

9 JIMMIE RAE GORDON,
10 after having been first duly sworn under oath,
11 was questioned and testified as follows:

12 DIRECT EXAMINATION

13 THE CLERK: Please be seated. Please state
14 your name and spell your last name for the record.

15 THE WITNESS: Jimmie Gordon, G-O-R-D-O-N.

16 THE COURT: All right. Mr. Gordon. Mr.
17 Cooper.

18 MR. COOPER: Thank you, Your Honor.

19 BY MR. COOPER:

20 Q. Good morning, Mr. Gordon.

21 A. Good morning.

22 Q. Are you here today pursuant to a subpoena
23 that was served on you requesting that you appear
24 today to testify in this matter?

25 A. Correct.

1 Q. Mr. Gordon, have you ever served any prison
2 time in the Department of Corrections of the State of
3 New Mexico?

4 A. Correct.

5 Q. In the late 2000 and early 2001 time
6 period, were you serving time at the Southern New
7 Mexico Correctional Facility?

8 A. That is correct.

9 Q. Where else have you served any time?

10 A. All throughout New Mexico.

11 Q. Most every facility?

12 A. Every facility.

13 Q. Okay.

14 A. Right.

15 Q. Now, in January of 2000, did you have
16 occasion to be transferred to Southern New Mexico
17 Correctional Facility?

18 A. That is correct.

19 Q. Do you remember the date that you went
20 there?

21 A. I do not.

22 Q. Ms. Gilbert, would you please bring up
23 Government's Exhibit 880, please.

24 Now, Mr. Gordon there is on the screen a
25 document. At the top of the document has the name

1 Gordon, Jimmie Rae, and the New Mexico Corrections
2 Department number. Does that number -- is that your
3 number?

4 A. Correct, it is.

5 Q. And that's your name?

6 A. Correct.

7 Q. I'll direct your attention to page 3 of 3.
8 Now, at the bottom of that page just above the red
9 line that I drew on that document, does that refresh
10 your recollection as to when you might have gone to
11 Southern?

12 A. Sure. If that's what it says, I'm pretty
13 sure it is.

14 Q. And that date is January 18, 2000?

15 A. Correct.

16 Q. And from that time to the date of March the
17 8th, 2001, does it appear that all of those locations
18 are at Southern New Mexico Correctional Facility?

19 A. That is correct.

20 Q. And can you tell us when you were
21 transferred out of Southern New Mexico Correctional
22 Facility and where you went to?

23 A. It looks like in March, Central New Mexico
24 Correctional Facility.

25 Q. And that would be March the 8th?

1 A. Correct.

2 Q. You went to Central?

3 A. Correct.

4 Q. And so you went from Southern New Mexico
5 Correctional Facility in Las Cruces to the Central
6 New Mexico Correctional Facility, which is located
7 where?

8 A. Los Lunas.

9 Q. Okay. We're going to come back to that
10 document a little later.

11 Are you a member of the Sindicato de Nuevo
12 Mexico?

13 A. No.

14 Q. Never have been?

15 A. Never have been.

16 Q. Can you describe for me, please, your
17 relationship. You know people who were members of
18 the SNM; correct?

19 A. Correct. You can't be incarcerated with
20 them without knowing them.

21 Q. Okay. And can you describe what sort of a
22 relationship you had with SNM?

23 A. Sure. I was actually the law library
24 clerk, what you call an inmate paralegal. And a lot
25 of my interaction came with them coming in and out of

1 the law library.

2 Q. Okay. And did you ever become close with
3 some of the leaders of the SNM?

4 A. That is correct.

5 Q. And can you give me a couple of names?

6 A. Lino G.

7 Q. Okay.

8 A. Styx.

9 Q. T-Bone?

10 A. T-Bone, correct.

11 Q. Okay. And at the time you were at Southern
12 New Mexico Correctional Facility, who was the holder
13 of the keys or who was the leader of the SNM?

14 A. It changed.

15 Q. Okay.

16 A. At a period of time you had Lino G, which
17 was called Sexy Walker.

18 Q. Okay. Let me stop you there for just a
19 minute. Lino G, was he the leader until such time as
20 he was transferred out?

21 A. Correct.

22 Q. Okay. And do you recall when that might
23 have been?

24 A. I do not.

25 Q. Would it help you if I brought up an

1 offender location history for Lino?

2 A. We can try that.

3 MR. COOPER: Ms. Gilbert, I believe that's
4 at Government's Exhibit 557.

5 MS. GILMAN: Do you have a Bates number?

6 MR. CASTELLANO: 884.

7 MR. COOPER: Thank you, Counsel.

8 Q. So if you look at the bottom three lines of
9 this document, the bottom one, November 15, 1999
10 until May 15, 2000, it appears that Mr. Giron was
11 located at SP1 G2205. That would be a Southern cell,
12 wouldn't it?

13 A. I believe so.

14 Q. And then from 5/15 of 2000, until February
15 5 of 2001, he was at a different cell at that same
16 facility. And on February 5, 2001, it appears that
17 he was transferred to PNM?

18 A. Correct.

19 Q. And PNM is what?

20 A. Penitentiary of New Mexico. I'm not
21 certain if it's Level 4 or 5.

22 Q. And then the next line shows that February
23 5, 2001 until March 3, 2001 he was at the North
24 Facility, and then eventually goes on to Virginia;
25 correct?

1 A. Correct.

2 Q. So he left Southern February 5 of 2001?

3 A. Correct.

4 Q. So until that time was he the leader?

5 A. Correct.

6 Q. Okay. T-Bone was also a fairly powerful
7 leader of the SNM?

8 A. Correct.

9 Q. But not as powerful as Lino?

10 MR. CASTELLANO: Objection to leading
11 questions.

12 MR. COOPER: I will rephrase.

13 Q. Did T-Bone have occasion to leave Southern
14 about the same time as Lino, if you know?

15 A. I can't answer that truthfully. I'm not
16 sure.

17 Q. Okay. But at some point he left Southern?

18 A. Correct.

19 Q. When Lino and T-Bone left, can you tell
20 who -- what happened to the leadership of the S?

21 A. Sure. Once they were shipped out, they had
22 a bunch of individuals within their organization that
23 came up, that wanted to pretty much be the shot
24 caller.

25 Q. Okay. And did somebody eventually rise to

1 the top?

2 MR. CASTELLANO: At this point I'm also
3 going to ask for foundation. He's indicated that he
4 was not an SNM Gang member.

5 THE COURT: Well, you got any more you can
6 give on foundation?

7 MR. COOPER: Absolutely.

8 THE COURT: I mean, I think --

9 Q. Absolutely. So you worked -- tell me some
10 more about being the law librarian.

11 A. Sure. In the law library, as far as my
12 task, I would assist inmates with their cases, writ
13 of habeas, whatever it may be. That's pretty much
14 what I would do in the law library.

15 Q. Did you ever have occasion to represent SNM
16 members at disciplinary hearings?

17 A. Correct.

18 Q. Okay. And how often did you do that?

19 A. The whole 16 years I was down, probably a
20 couple hundred times.

21 Q. And how would you describe your
22 relationship with the SNM members? Did they like
23 you?

24 A. They did. I never had any issues with any
25 of them. Always treated me with respect.

1 Q. Did they trust you?

2 A. They did trust me, correct.

3 Q. Did you become good friends with some of
4 them?

5 A. Correct.

6 Q. Do you think those good friends trusted
7 you?

8 A. I believe to a certain point, correct, yes.

9 Q. Did SNM members ever have meetings in the
10 library?

11 A. Yes, they did.

12 Q. And did they ever discuss SNM business in
13 the library?

14 A. Yes, they did.

15 Q. While you were present?

16 A. Correct.

17 Q. And why did they do that while you were
18 present, if you weren't an SNM member?

19 A. Well, they would meet in the back of the
20 law library.

21 Q. Okay.

22 A. Back with the legal books in the stacks in
23 the back. It was quiet. There is really no one
24 around. Myself and my boss, which was the DOC
25 librarian, which is Geraldine Martinez. So the

1 majority of the time, I mean, they'd meet back there
2 to talk to each other. It was a quiet place.

3 Q. Do you think they had any concern about
4 whether or not you could overhear those
5 conversations?

6 A. It came up a few times, and certain
7 individuals would always reassure them, No, that's
8 not an issue.

9 Q. Okay. Did the members of the SNM ever
10 trust you enough to hold any of their belongings?

11 A. Sure.

12 Q. What sorts of belongings?

13 A. Paperwork.

14 Q. Now, what kind of paperwork?

15 A. I would be requested to see why the
16 individuals were there. People would roll up, come
17 to the facility, and it would be brought to me to
18 find out what their charges were, to see if they had
19 testified on anybody.

20 Q. And how would you do that?

21 A. From access to the law library, you have
22 access to a lot of different things.

23 Q. And in so doing, would you ever create
24 paperwork?

25 A. I would print out paperwork.

1 Q. You would print out paperwork?

2 A. Yes.

3 Q. And would you give that paperwork to the
4 SNM leaders?

5 A. Correct. One thing you have to understand
6 is in prison I do not have access to the internet.
7 So the majority of the stuff that was actually
8 collected was from my boss, which was Geraldine
9 Martinez. So I would obtain it that way, correct.

10 Q. Okay. And she trusted you enough to allow
11 you access to those sorts of documents?

12 A. Correct.

13 Q. Did you have occasion or did you have the
14 ability to ask other individuals in the facility to
15 obtain other documents that might have been located
16 in other locations?

17 A. Correct. I did not have access to get into
18 the security computers. So you would have to go to
19 the clerk of security -- which would be an inmate;
20 they work for the Major -- and ask them to obtain
21 information.

22 Q. And you would oftentimes request
23 information from the clerk?

24 A. Correct.

25 Q. That worked in the Major's office?

1 A. Correct.

2 Q. And would that -- do you remember that
3 individual's name?

4 A. Donny Morris.

5 Q. And would Donny Morris give you the items
6 that you had requested?

7 A. That is correct.

8 Q. And typically, what sorts of items, what
9 sorts of documents would he copy for you from the
10 Major's office?

11 A. STIU, STG information, escape flyers.

12 Q. And why were you --

13 A. Alpha rosters.

14 Q. And why were you requesting those sorts of
15 documents of Mr. Morris?

16 A. I would be requested to get them to find
17 out why individuals were incarcerated, what their
18 charges were, so on and so forth, to provide them to
19 individuals that were requesting them.

20 Q. And those individuals that were requesting
21 them, were they members of a particular gang?

22 A. Correct.

23 Q. What gang?

24 A. The SNM.

25 Q. And were they typically the leadership of

1 that gang?

2 A. Correct.

3 Q. The documents that they would request you
4 to locate, copy for them, did those documents ever
5 have an indication of what gang affiliation an
6 individual may have?

7 A. Sure. If they were STG or STIU, correct,
8 they would have, yes.

9 Q. They would have that information in those
10 documents?

11 A. Correct.

12 Q. So if somebody were to be a member of Los
13 Carnales, for instance, would that be noted in the
14 documents that you were trying to get copied for the
15 leadership?

16 A. In some cases, yes.

17 Q. Now, when you would make copies of those
18 documents that either you had access to on the
19 unsecured either computers or files in the library or
20 the documents from the secured location where
21 Mr. Burg was working, when you printed those out,
22 what did you do with them?

23 A. I would take them over to the individual
24 that was requesting them. Most of the time it was
25 Lino G.

1 Q. Okay. And after Lino G left, who requested
2 them?

3 A. After Lino G left, again it was internal;
4 people were kind of fighting on who was going to take
5 over. At that point in time, I want to say I
6 probably gave some to Smurf.

7 Q. Okay. And Smurf's name is?

8 A. Lucero.

9 Q. Leroy Lucero?

10 A. Right.

11 Q. Now, after you give these documents to
12 either Lino G or to Smurf, would they retain those
13 documents in their cells?

14 A. A lot of times they would review them and
15 they would give them back to me. Sometimes they
16 would take them with them. Very rarely was I ever
17 shaken down. I was in the honor unit.

18 Q. Now, what do you mean shaken down?

19 A. My cell searched.

20 Q. Okay. What about SNM members, did they
21 have their cells searched?

22 A. Oh, constantly.

23 Q. Constantly. And as a consequence, would
24 they keep those documents in their own cells?

25 A. No.

1 Q. What would they do with those documents?

2 A. A lot of times they would give them back to
3 me to hold. At certain points I'd give them to them.
4 And I'm not sure what they would do with them, to be
5 honest.

6 Q. During your stay -- let's just talk about
7 the 2000 to 2001 time period.

8 A. Right.

9 Q. Did you keep any of those documents for SNM
10 members --

11 A. Yes, I did.

12 Q. -- in your cell?

13 A. Yes, I did.

14 Q. What about money? Did you ever keep any
15 money for SNM members?

16 A. Yes, I did.

17 Q. And can you tell us -- tell the ladies and
18 gentlemen of the jury about that?

19 A. There would be certain points in times
20 where I would be asked to hold money. I would hold
21 money. And then there would be individuals who would
22 make clocks, I guess you'd call it wood crafting
23 items. And of course, the money would be placed in
24 those items, the cash. And then of course visitors
25 would pick those items up. And that would be how

1 money would be -- cash would be moved out. Other
2 ways would be, of course, officers, dirty officers.

3 Q. So given all that, do you think the SNM
4 trusted you?

5 A. I do.

6 Q. As a result of that trust, do you think you
7 ever came to the point where you knew a lot about the
8 business of the S?

9 A. I do.

10 Q. Did you learn about the inner workings of
11 the S?

12 A. Correct.

13 Q. Now, to be clear, you were not part of the
14 meetings that were held in the library. But because
15 they were comfortable with your presence, do you have
16 an opinion as to whether or not they spoke openly in
17 front of you?

18 A. Sure.

19 Q. And --

20 A. They did, the majority of the time.

21 Q. So if they were talking about SNM business,
22 they wouldn't hesitate to speak in front of you?

23 A. The majority of the time, no.

24 Q. Now, once Leroy Lucero assumed the power,
25 were there other individuals that expressed any

1 displeasure with the fact that he was now running the
2 show?

3 A. Sure.

4 MR. CASTELLANO: Calls for facts not in
5 evidence.

6 THE COURT: Well, I think you can deal with
7 that on cross. But I think the question is proper.
8 Overruled.

9 Q. So once Leroy assumed power, leadership
10 after Lino left, did anybody exhibit any displeasure
11 with the fact that Leroy was running the show?

12 A. There was some, correct.

13 Q. Do you have -- can you think of anybody in
14 particular?

15 A. Sure. Pancho was one.

16 Q. Pancho was one?

17 A. Correct.

18 Q. And Pancho was who?

19 A. I know him by Pancho.

20 Q. Okay. You know him by Pancho?

21 A. Right.

22 Q. Was Pancho subsequently killed?

23 A. He was.

24 Q. Was he one of the ones that was killed
25 during the double homicide --

1 A. Correct.

2 Q. -- in March?

3 A. Correct.

4 Q. And why did he, if you know, exhibit that
5 displeasure with the fact that Leroy was running the
6 show?

7 MR. CASTELLANO: Objection, calls for
8 hearsay.

9 MR. COOPER: If he knows.

10 THE COURT: Well --

11 MR. CASTELLANO: That's hearsay.

12 THE COURT: -- see if you can establish
13 that he knows from some nonhearsay source. I'm
14 trying to think how he would know. Why don't y'all
15 approach and you can tell me what he's going to say.

16 MR. COOPER: Your Honor, I'll just
17 rephrase.

18 THE COURT: Okay.

19 Q. Mr. Castillo wasn't the only individual who
20 you observed trying to assume leadership, was he?

21 A. That is correct.

22 Q. But he was one of them?

23 A. Correct.

24 Q. Did you ever see him express displeasure to
25 either Leroy or others about the fact that Leroy had

1 assumed the power?

2 A. Correct. They had argued, correct.

3 Q. So you saw the arguments?

4 A. Um-hum, limited arguments in the library.

5 I don't know what happened in their pods or anything
6 like that.

7 Q. Okay. But in -- okay, thank you.

8 Did you ever see individuals looking at
9 kites and compiling hit lists?

10 A. Correct.

11 Q. You did?

12 A. Correct.

13 Q. And where did that occur?

14 A. The law library.

15 Q. And what individuals were doing that?

16 A. What time? What? Before?

17 Q. Let's talk about after Lino leaves. So
18 between February 5th, when Lino leaves, and March the
19 8th, when you leave?

20 A. Okay. You're asking me to name who was
21 there at the table?

22 Q. Yes, sir.

23 A. Smurf, Youngster.

24 Q. Do you know Youngster by any other name?

25 A. Eugene Martinez.

1 Q. Okay. Does he also go by Huero?

2 A. Huero. Alex Munoz. I can't remember if
3 Jesse Ibarra was there or not. Spider.

4 Q. And who is Spider?

5 A. Oh, crap --

6 Q. If you know.

7 A. Augustine Saenz, I believe.

8 Q. Augustine Saenz is also known as Spider?

9 A. Correct.

10 Q. Were you ever given a hit list?

11 A. Yes.

12 Q. And who gave you that hit list?

13 A. Which time?

14 Q. After Lino leaves --

15 A. Um-hum.

16 Q. -- and before you leave.

17 A. I observed a list. I was given one after
18 they left -- I was able to see it. It wasn't
19 actually given to me to hold, but I was able to
20 review it, to see it.

21 Q. And what was the purpose of allowing you to
22 see it, if you know?

23 A. Sure. One of them they wanted me to check
24 and see if I could find out any STIU or STG
25 information to see if -- oh, what's his name? The

1 other one that was killed. Not Pancho, but the other
2 one. To see if there was any information on him
3 being Los Carnales.

4 Q. And did you see any other names on that
5 list?

6 A. I did. There was several names on the
7 list.

8 Q. Okay. And did you do anything as a result
9 of seeing the names on the list and hearing the
10 request to look into it further?

11 A. Correct. After much consideration, I did
12 make sure that the list -- that administration knew
13 of the list.

14 Q. So did you give them the full list or just
15 a couple of names?

16 A. A couple of names.

17 Q. Can you tell me what names those were?

18 A. You have to remember, this is way back
19 in -- way back. I've slept since then. But I do
20 know -- I think one was Donovan Vargas. I don't want
21 to give you false information. I don't remember all
22 of the names that were on there.

23 Q. Would it help if I showed you a document
24 that was prepared back at or near the time where you
25 gave a list of the names?

1 A. Sure. That's correct.

2 Q. So does that document refresh your
3 recollection as to who was on that list?

4 A. Yes.

5 Q. Now, Mr. Gordon, you say you gave two names
6 to -- I don't know if you said, or who you said you
7 gave the names to, or you may have said it and I
8 forgot.

9 A. Administration.

10 Q. To administration. And one of the names
11 was?

12 A. I remember Donovan Vargas.

13 Q. Donovan Vargas. And the other one?

14 A. I don't remember which one. I really
15 don't. I can name off a bunch of people from the
16 list that I just seen, and all those seemed to be
17 correct from what I can remember.

18 Q. And it was a list of nine names, correct?

19 A. Correct. And I believe there was an
20 officer or two on there as well, I believe.

21 Q. And that was a hit list that had been given
22 to you that you saw that Leroy Lucero had, correct?

23 A. Correct.

24 Q. Did you have occasion to thwart a hit on
25 two of those individuals?

1 A. Yes, I did.

2 Q. How did you do that?

3 A. I advised administration of the situation.
4 They removed them from the facility.

5 Q. Those two individuals were removed from the
6 facility?

7 A. Um-hum.

8 Q. As a consequence of that, did anything
9 happen to you?

10 A. Sure. Administration came in and felt
11 there was a possibility my life was in danger. They
12 removed me from Southern New Mexico Correctional
13 Facility in the middle of the night, moved me to
14 Central New Mexico Correctional Facility, placed me
15 into the mental health unit to kind of hide me out
16 for a little bit.

17 Q. And would that have been on March the 8th,
18 2001?

19 A. Probably.

20 Q. That's the date that we saw on the screen a
21 minute ago when we were looking at Government's
22 Exhibit 880?

23 A. Yes, correct.

24 Q. So how did you notify administration that
25 Donovan Vargas and another individual were going to

1 be hit?

2 A. Wrote a note, advised the caseworker, and
3 she got ahold of the warden. Warden Tafoya met with
4 me.

5 Q. Okay. Was there a copy of that note
6 floating around? Did anybody find out that the note
7 had been written?

8 A. Sure. That's one of the reasons why they
9 got me out of there when they did. There was another
10 individual working in the law library.

11 I had also advised Geraldine Martinez,
12 which was my boss, of the situation. And then I got
13 to thinking she may not report it. And there are a
14 bunch of reasons why. But I just thought, well, she
15 may not report it. That's why I told the caseworker.

16 Well, what she had actually done is she had
17 actually typed it up, and she'd put it on her desk,
18 and turned it over. The other law librarian,
19 assistant clerk, obtained that, and, of course, gave
20 it to Smurf, and it was passed around.

21 Q. Now, you said there were reasons why she
22 might not disclose it. You obviously know something
23 that -- can you tell what those reasons were?

24 A. Sure. She was having an affair, you might
25 say a sexual contact, with one of them, and she --

1 Q. One of whom? One of them?

2 A. With the SNM.

3 Q. With an SNM member?

4 A. Correct.

5 Q. How do you know that?

6 A. I was there. I seen it.

7 Q. So because of that, you thought there might
8 be a chance that she would not report the fact that
9 there were two hits?

10 A. Correct.

11 Q. So rather than rely on her giving word to
12 the warden, you took it upon yourself to get word to
13 him yourself, or to a caseworker?

14 A. Right. To the fact that the individual
15 that I gave the information to was Joannie Brown, and
16 she was the director of classification. She's over
17 the caseworkers.

18 Q. Okay. Were you ever present when a green
19 light was ordered to kill Rolando Garza and Pancho
20 Castillo?

21 A. Yeah.

22 Q. Can you describe who else was present?

23 A. Let me just clarify: The date that they
24 were discussing it at the table, there was Youngster,
25 Smurf, Spider. I still can't remember if Jesse was

1 there or not. At the table there was Alex, Smurf --
2 I can't remember for sure if Jesse was there, but I
3 do remember Alex, Smurf, Youngster, Spider. They
4 were there at the table when it was being discussed.

5 Q. And that was the murders of Rolando Garza
6 and Frank Castillo?

7 A. Correct.

8 Q. Was there a discussion as to how the
9 murders were to take place?

10 MR. CASTELLANO: Objection, calls for
11 hearsay.

12 THE COURT: I think this is just a yes/no,
13 question. So I'll allow this. Overruled.

14 Q. Was there a discussion as to how the
15 murders were to take place?

16 A. Sure. Strangulation.

17 THE COURT: Well, just yes/no. Let's stop
18 there.

19 MR. CASTELLANO: I'll ask that the rest of
20 the answer be stricken, Your Honor.

21 MR. COOPER: Your Honor --

22 THE COURT: I'll strike the last, and the
23 jury will not consider it in its deliberation.

24 Q. Do you know when --

25 THE COURT: I think I'm going to undo that.

1 I think the jury can consider that. So I'm not going
2 to strike that information. So I'll overrule the
3 objection.

4 Mr. Cooper.

5 MR. COOPER: Thank you, Judge.

6 Q. So how was the murder to have occurred?

7 A. Silent respect.

8 Q. What does "silent respect" mean?

9 A. They had discussed it that day as
10 strangulation.

11 Q. Okay. So no blood would be shed?

12 A. Correct.

13 Q. And when were these killings supposed to
14 occur?

15 A. They were supposed to take place --

16 MR. CASTELLANO: Another objection as to
17 hearsay, Your Honor.

18 THE COURT: I think these are okay.
19 Overruled.

20 MR. CASTELLANO: May we approach, Your
21 Honor?

22 THE COURT: You may.

23 (The following proceedings were held at the
24 bench.)

25 THE COURT: I guess I was thinking these

1 were like the orders that we've seen throughout the
2 trial. It seems to me that we're just back to
3 orders, and those are nonhearsay.

4 MR. CASTELLANO: I would agree if they were
5 orders, but he's only asked about discussions,
6 they've talked about things. And so based on the
7 wording of the question, these are only discussions.
8 Now, if he says they were orders, I agree with the
9 Court, that would change things. But at this point
10 there has been a discussion about strangulation, and
11 a discussion about a date. But we're not at orders
12 yet. It's just talk around the table amongst
13 members. I agree with the Court, if he says that's
14 an order, that changes things.

15 MR. COOPER: I believe that they are
16 orders.

17 THE COURT: Well, why don't you see if you
18 can get a little more. I guess I think we're there.
19 But see if you can nail it down. Was he overhearing
20 orders being given, and if they were, I'll just leave
21 it where it is.

22 MR. CASTELLANO: Okay.

23 THE COURT: I'm inclined to leave it where
24 it is, because it seems to me that's what he's
25 talking about. He hasn't -- unless I missed

1 something, he's not using the words discussions, is
2 he? I mean he's saying he heard --

3 MR. CASTELLANO: The question by counsel
4 was what was being discussed, in essence.

5 MR. COOPER: I thought he said decided.

6 THE COURT: Well, the question was: "Was
7 there a discussion as to how the murders" -- do you
8 want --

9 MR. CASTELLANO: That would be planning as
10 opposed to an order. And I think there is a
11 distinction between the two. He may get there, but
12 he's not there now.

13 THE COURT: Well, why don't you --

14 MR. COOPER: I'll continue.

15 THE COURT: I'm inclined to leave it, but
16 it would probably make me feel better if you can nail
17 it down a little more.

18 MR. COOPER: I can nail it down. Thank
19 you.

20 (The following proceedings were held in
21 open court.)

22 THE COURT: Mr. Cooper.

23 BY MR. COOPER:

24 Q. So a moment ago I asked you if you were
25 ever present when a green light was ordered for the

1 names on the hit list. I'd like to ask that again of
2 you.

3 A. Correct. I was present when it was being
4 discussed, yes.

5 Q. Okay. And during that discussion, did
6 Leroy Lucero order that those hits occur? Or did the
7 group order that the hits occur?

8 A. The group came to the conclusion.

9 Q. That the hits should happen?

10 A. Correct.

11 Q. Okay. And did they then decide how the
12 hits would be carried out?

13 A. Correct.

14 MR. CASTELLANO: Same objection, Your
15 Honor.

16 THE COURT: I think I'm going to leave it.
17 So overruled.

18 Q. And they decided the hits would be carried
19 out in what manner?

20 A. Silent respect.

21 Q. Okay. And did they decide when the hits
22 would occur?

23 A. Correct. They were trying to decide that,
24 correct, yes.

25 Q. And was a decision ever arrived at as to

1 when they would occur?

2 A. At that particular time, I do not believe
3 so. What I do believe -- and I do know -- not what I
4 believe, what I do know, after someone had made a
5 comment --

6 MR. CASTELLANO: Objection, Your Honor, as
7 to hearsay. He said he found out afterwards by
8 somebody else.

9 THE COURT: I'm not sure what the comment
10 is going to be. So why don't you approach and tell
11 me what you expect the answer to be.

12 (The following proceedings were held at the
13 bench.)

14 THE COURT: Do you know what this comment
15 is?

16 MR. COOPER: Your Honor, I believe that
17 he's going to say that Leroy Lucero said that not do
18 it until I leave.

19 THE COURT: So an order?

20 MR. COOPER: Yeah. He's given the order,
21 but he doesn't want the order carried out until after
22 he leaves.

23 THE COURT: Is that what you expect him to
24 say?

25 MR. COOPER: That's against interests.

1 MR. CASTELLANO: He said he heard later, so
2 it sounds like somebody said something to him after
3 the fact.

4 MR. COOPER: And it was after the fact,
5 there is no question.

6 THE COURT: That he heard it later?

7 MR. COOPER: But I think he heard it from
8 Leroy Lucero, or heard Leroy Lucero talking about it
9 with others, and that's going to be a statement
10 against interests.

11 MR. CASTELLANO: Then, no, he was --

12 MR. COOPER: Or also a co-conspirator
13 statement.

14 MR. CASTELLANO: Not if it's after the
15 fact, Your Honor. The conspiracy would have
16 concluded, and Leroy Lucero --

17 THE COURT: I agree with you on the
18 co-conspirator, probably not on that. But what about
19 statement against interests?

20 MR. CASTELLANO: It wouldn't be, because
21 Leroy wasn't an available witness, so a requirement,
22 availability for a statement against interests, and
23 so any statements made after the fact would be
24 hearsay.

25 THE COURT: I think what he's doing now is

1 he's now telling historically what an order was,
2 rather than telling what the order --

3 MR. COOPER: It's also --

4 THE COURT: -- is.

5 MR. COOPER: But I think -- I'm sorry, I
6 didn't mean to interrupt.

7 THE COURT: That's all right.

8 MR. COOPER: It's also an inconsistent
9 statement from what Leroy Lucero had testified to.

10 THE COURT: Tell me what --

11 MR. COOPER: Because Leroy said he didn't
12 give any orders. He didn't say that this should be
13 done after I leave.

14 THE COURT: Well, if you're going to
15 impeach that statement, I don't think we yet have him
16 saying something that is inconsistent with that yet.
17 You could go ahead and just impeach. Why don't you
18 ask a leading impeachment question of Lucero, and get
19 the answer. And then I think that may be it. And I
20 may have to instruct the jury that this testimony is
21 coming in just to determine whether Mr. Lucero was
22 truthful on the stand when he testified.

23 MR. CASTELLANO: If it comes in, we will
24 not request a limiting instruction.

25 MR. CASTLE: I think what it is is that he

1 had discussion with Mr. Lucero after this meeting, in
2 which Mr. Lucero said that he had ordered the hits to
3 occur after he left. That is Mr. Lucero's then
4 present --

5 THE COURT: Well, but I think what Mr.
6 Cooper was saying was he thought it occurred after
7 the murders occurred.

8 MR. COOPER: No, no, no, no, no, no. After
9 this discussion. This discussion -- all of these
10 discussions happened before March the 8th, because on
11 March 8 he's shipped out to Central. The murders
12 don't occur until March 26, so --

13 THE COURT: I think it sounds to me we're
14 back to it being an order. It's just part of the
15 order.

16 MR. CASTELLANO: I agree, if it's before
17 the murder that it's game. But the witness said it's
18 later, so we didn't have --

19 MR. COOPER: I can clear that up
20 definitely.

21 THE COURT: Let's try that.

22 (The following proceedings were held in
23 open court.)

24 THE COURT: Mr. Cooper.

25 MR. COOPER: Thank you, Judge.

1 BY MR. COOPER:

2 Q. So any discussions that you would have had
3 with Leroy Lucero about when those murders were to
4 occur would necessarily have -- would have had to
5 have happened before you were transferred to Central
6 New Mexico Correctional Facility on March the 8th;
7 correct?

8 A. That's correct.

9 Q. Because after March 8, you're no longer
10 housed with Leroy?

11 A. That is correct.

12 Q. So then you heard Leroy give the order that
13 it not happen until after he left?

14 A. What I heard is we had a turn-in -- can I
15 explain it?

16 Q. Sure. You had a what?

17 A. We had a turn-in. And that's where --

18 Q. What's a turn-in?

19 A. Okay. A turn-in is where you're told you
20 have to leave the law library and return back to your
21 pods for count, for lockdown, whatever. So what I
22 did hear is I did hear Smurf tell Eugene Martinez
23 that nothing was to be carried out until after he
24 left.

25 Q. Okay.

1 A. Eugene had been wanting to do it right
2 away.

3 Q. Sooner?

4 A. Correct.

5 Q. But Leroy Lucero, Smurf, said, No, not
6 until after I leave?

7 A. Correct.

8 Q. And this conversation would have occurred
9 before you left to Central, right?

10 A. Correct.

11 Q. Which just doesn't make sense it could
12 occur once you got to Central, and he --

13 A. No.

14 Q. -- and Youngster are still at --

15 A. Right.

16 Q. Okay. I'd like to go back to the hit where
17 Mr. Donovan Vargas and the other individual that you
18 can't remember his name was to occur. Do you
19 remember any of the details about when that hit was
20 supposed to happen?

21 A. I don't.

22 MR. COOPER: May I approach the witness,
23 Your Honor?

24 THE COURT: You may.

25 Q. So I'm going to hand you a document to see

1 if this is will refresh your recollection as to
2 whether or not you can recall when the hit was to
3 have occurred.

4 A. Okay. You're asking the time of day?

5 Q. Or just any details about the hit.

6 A. Correct. Yeah, it was supposed to be
7 carried out in the early morning, right after
8 breakfast. That is correct.

9 MS. TORRACO: Your Honor, I apologize. I'm
10 sorry to interrupt. I can't hear the witness.

11 THE WITNESS: Sorry.

12 Q. Well, let me get to a microphone, you get
13 to yours.

14 A. Okay.

15 Q. So after reviewing the document that was
16 prepared by an FBI agent concerning your discussions,
17 do you now recall any of the details as to how the
18 hit on Donovan Vargas and the other individual was to
19 occur?

20 A. Correct. It was to occur that morning, in
21 the early morning hours.

22 Q. And that's the hit that you stopped by
23 giving word to administration?

24 A. That is correct.

25 Q. And then those guys were subsequently moved

1 out?

2 A. Correct.

3 Q. And as a consequence, you were moved out?

4 A. Correct.

5 Q. At the time that you gave -- Ms. Brown, I
6 believe was her name?

7 A. Joannie Brown.

8 Q. Joannie Brown. At the time you gave
9 Joannie Brown the name of the two individuals and the
10 details that they were going to be hit the next
11 morning, did you give them any other names of
12 individuals that were on that hit list that you had
13 seen?

14 A. No, not at that time.

15 Q. Not at that time. How do you feel about
16 that?

17 A. I feel bad.

18 Q. Why is that? I know this is difficult.

19 A. No, I mean, two people died, um-hum.

20 Q. What two people died?

21 A. Pancho and Looney.

22 Q. Would you -- I didn't --

23 A. Pancho and Looney.

24 Q. Okay. And do you feel some responsibility
25 for that?

1 A. Somewhat, yeah.

2 Q. How could you have stopped it?

3 A. If I would have just given all the
4 information to them. But I didn't.

5 Q. And why didn't you?

6 A. Because, one, if you give out the
7 information and everybody gets locked down, for
8 certain someone is ratting. They're going to find
9 out, then I would be dead.

10 Q. Okay. And there were only a few people
11 that knew about that hit list probably, right?

12 A. That's correct.

13 Q. The individual you named and yourself?

14 A. Correct.

15 Q. Were you ever given 15 to 20 Department of
16 Corrections Inmate Information Master Record Flyers
17 by a SNM leader?

18 A. Correct.

19 Q. And who was that that gave you those?

20 A. Lino G had given me some, and so did Smurf.

21 Q. Okay. And where did those -- what are they
22 called?

23 A. Escape flyers.

24 Q. Escape flyers?

25 A. Correct.

1 Q. Do you know where they came from?

2 A. They have to be printed out of the security
3 mainframe.

4 Q. Okay. And that's where Donny Morris
5 worked?

6 A. Correct.

7 Q. So what did you do with the 15 or 20 that
8 Smurf had given you?

9 A. I had begun to check and see why the
10 individuals were there, and see if there were any
11 individuals that were Los Carnales. That's some of
12 the reasons why.

13 Q. Do you recall making a second set of
14 documents and then giving one set to a CO?

15 A. Correct, I did.

16 Q. And can you describe for us, please, what
17 occurred, what you did?

18 A. Sure. The reason why I gave -- made a copy
19 of the set of documents I gave to the CO, so they
20 could get to administration to prove to them that,
21 hey, this is happening, you know, this is here, this
22 is happening, you know. Otherwise, you can just go
23 and say something to someone, and if there is no
24 proof, you know, I'm just another inmate. So that's
25 why I did that.

1 Q. Do you remember another time when you gave
2 some documents to Isaac Barela?

3 A. Correct, Officer Barela.

4 Q. And who gave you those documents and
5 instructed you to give them to Officer Barela?

6 A. I can't, remember, to be honest.

7 Q. Okay.

8 MR. COOPER: May I approach, Your Honor?

9 THE COURT: You may.

10 A. It could have been Lino G.

11 Q. Mr. Gordon, do you now remember what
12 happened with regard to the documents that you gave
13 to Isaac Barela?

14 A. Correct, that specific time.

15 Q. Okay.

16 A. When you're asking this stuff, there is
17 numerous times this happened, so I'm not sure what
18 you're referring to.

19 Q. Well, I'm sorry. I need to be more
20 specific.

21 A. Right.

22 Q. So there were times when you gave them back
23 to administration?

24 A. Sure.

25 Q. But this particular time can you tell

1 why -- or well, who gave you the 15 to 20 --

2 A. That particular --

3 Q. -- escape flyers?

4 A. That particular time Smurf gave me those,
5 that is correct.

6 Q. And what did he want you to do with them?

7 A. He asked me to make two sets, two copies of
8 those. I had a little bit of difficult time doing it
9 at that time because the law library printer was
10 down. But anyway, so made two sets, was told to put
11 one set, fold it, and give it to Officer Barela. And
12 I did so, or went to do so. And Captain walked in
13 while I was giving it to him. We had to hurry up
14 real quick and make an excuse.

15 Q. Okay. What did you do with the other set?

16 A. I believe at that time -- I can't remember
17 what I did with the other set. I don't know if I
18 took them back with me. I don't think so. That was
19 2001, whenever. I don't remember, to be honest.

20 Q. And do you remember whose escape flyers
21 those were, or who among that 15 to 20?

22 A. Man, I hate to lie, because I can't answer
23 it correctly. I'm thinking it was Eugene, Spider.
24 That particular time that's who I'm assuming it was,
25 I'm thinking it was.

1 Q. Okay. Would it help refresh your
2 recollection if I were to show you the document that
3 was prepared?

4 A. I think Donovan was one of them.

5 Q. A document that was prepared three days
6 after this incident where you talked with them?

7 A. Right.

8 MR. COOPER: May I approach, Your Honor?

9 THE COURT: You may.

10 A. Correct.

11 Q. Now, at the time that you reported to the
12 FBI agent who among the 15 or 20 -- can you tell me
13 who those people were?

14 A. Do you want me to read from this?

15 Q. Without reading it, can you tell me --
16 well, how many of them -- how many inmates were there
17 that you remembered three days after this incident?
18 And you can look at --

19 A. Sure. All the ones that are here,
20 definitely. I mean, that was just three days. It's
21 not years, like it's been already.

22 Q. So can you tell me who -- let's try without
23 reading it -- who -- and I think there was probably
24 nine or 10 of them?

25 A. There was Youngster, Spider, Dondin -- his

1 name is Jose Gutierrez; we called him Dondin; some
2 say D, some say T. Who knows? Just put down
3 whatever you think, I guess. Jaime Bustamante.
4 There was quite a few.

5 Q. Okay. Was Donovan on that list?

6 A. He was, correct.

7 Q. Was --

8 A. And so was Looney and Pancho.

9 Q. Toby Romero?

10 A. Correct.

11 Q. What about Jeremiah Baca? Was he on it?

12 A. He was, yes.

13 Q. And Spider, again, is Augustine Saenz,
14 right?

15 A. Correct. It helps me sometimes if you say
16 what they go by, because I don't know them as
17 their --

18 Q. And Donovan Vargas was also known as
19 Spider?

20 A. Correct.

21 Q. Mr. Gordon, I hate to ask this, but there
22 was a really horrific event that happened to you when
23 you first entered prison.

24 A. Do I have to talk about all that? Can I
25 just say yes, and that's it?

1 Q. Yeah, just say yes.

2 A. Yes.

3 Q. Okay. And with regard to this question,
4 just give me a yes or no answer, I don't want any
5 explanation. But were you ever assaulted by SNM
6 members in a very personal way?

7 A. Um-hum.

8 Q. Yes?

9 A. Yes.

10 MR. COOPER: Thank you, Mr. Gordon. I have
11 no further questions.

12 THE COURT: Thank you, Mr. Cooper. Any
13 other defendant have direct examination of
14 Mr. Gordon?

15 All right. Mr. Castellano, do you have
16 cross-examination of Mr. Gordon?

17 MR. CASTELLANO: Thank you, Your Honor.

18 THE COURT: Mr. Castellano.

19 CROSS-EXAMINATION

20 BY MR. CASTELLANO:

21 Q. Good morning, Mr. Gordon.

22 A. How are you doing, sir?

23 Q. I'm doing okay. How are you?

24 I have to ask you, before you took the
25 stand, did the attorneys advise you that you were

1 going to be admitting to criminal liability on the
2 stand?

3 A. No.

4 Q. Do you understand that some of the things
5 you've told the jury today do subject you to criminal
6 liability?

7 A. No.

8 MR. COOPER: Objection, Your Honor. May we
9 approach?

10 THE COURT: You may.

11 (The following proceedings were held at the
12 bench.)

13 MR. COOPER: Judge, I think these questions
14 amount to threats to this individual witness. And I
15 just don't think it's appropriate to go down this
16 line of questioning.

17 THE COURT: I'm not sure, how much more are
18 you wanting to do on this aspect of it?

19 MR. CASTELLANO: Here's the problem with
20 his testimony: He's implicated himself in these
21 murders because he maintained the hit list, and he
22 used to keep the list in his cell and investigate
23 whether people were Los Carnales Gang members, for
24 example. That is a --

25 THE COURT: But given where we are, what do

1 you want to do? What is helpful at this point to
2 telling him that? I mean, it's true, but what is the
3 goal of telling him that?

4 MR. CASTELLANO: I need to make sure he
5 knows what he's getting into. He is --

6 THE COURT: But hasn't the train left the
7 station now?

8 MR. CASTELLANO: It kind of has; that's the
9 problem. I raised this issue with the Court before
10 he took the stand.

11 THE COURT: I mean, he's got an attorney.
12 I can't interfere with that relationship. Ms. Bevel
13 contacted Mr. Crutchfield and we were assured that he
14 knew he was going to testify today. And he said he
15 didn't need to be here. I don't know what more I can
16 do.

17 MR. CASTELLANO: I agree. And I raised
18 this issue beforehand. It's a big problem. And I
19 don't think he knew what he was getting into on the
20 stand.

21 THE COURT: Well, that may be. I'm
22 concerned about it. But given where we are, what do
23 you want to achieve by telling him that he really may
24 have messed up?

25 MR. CASTELLANO: I want to make sure that

1 he is doing this knowingly, intelligently, and
2 voluntarily. The money is money laundering that he
3 did on behalf of the gang. He was keeping a list in
4 his cell for the gang. He was investigating people
5 for the gang. I don't know what we do with this.
6 And I have a right to cross-examine him.

7 THE COURT: Listen, I'll let Mr. Castellano
8 go a little bit longer, just so the jury can assess
9 his -- you know, the voluntariness of his statements.
10 I think those go to his credibility at this time.
11 But I'm not sure what we can do about it at the
12 present time.

13 MR. COOPER: Sure. But I think it's
14 more -- these questions ought to be designed to
15 inform the jury as to his credibility, not designed
16 to obtain evidence for a future prosecution.

17 MR. CASTELLANO: I mean, this is very
18 similar to the cross-examination of Michael Jaramillo
19 by Mr. Sindel; he asked him about the Kastigar letter
20 and whether he knew what he was really protected
21 against. This is very much in line except this guy
22 doesn't even have a Kastigar letter.

23 THE COURT: Let me just take these a
24 question at a time. I think I've got to let Mr.
25 Castellano go a little bit further. Then you're

1 welcome to reapproach. But I think I need to listen
2 for a little bit.

3 MR. COOPER: And I don't think that Mr.
4 Castellano can infringe upon the attorney-client
5 relationship. And I just want to advise the Court
6 that I'm going to probably object if the questions go
7 there.

8 MR. CASTELLANO: My questions aren't
9 between him and his attorney. It's the questions
10 between these attorneys and him. I'm not going to
11 touch on the conversations with his own attorney. I
12 just want to know if he knew what he was getting into
13 when they put him on the stand.

14 THE COURT: Let's let it go a little bit
15 longer. But I think I've got to give Mr. Castellano
16 some leeway here to challenge his credibility about
17 what he was getting into when he came here.

18 MR. CASTELLANO: Okay.

19 (The following proceedings were held in
20 open court.)

21 THE COURT: All right. Mr. Castellano.

22 MR. CASTELLANO: Thank you, Your Honor.

23 BY MR. CASTELLANO:

24 Q. Mr. Gordon, I don't want to beat you up too
25 much on this, but did you know what you would be

1 talking about when the attorneys put you on the stand
2 today?

3 A. No, not everything, no.

4 Q. Did you understand the implications of
5 keeping certain lists for the SNM?

6 A. No, I didn't.

7 Q. Did you understand that by helping the SNM
8 by, for example, investigating whether people were
9 Los Carnales Gang members, that was helping the gang
10 investigate its enemies?

11 A. I didn't understand, no.

12 Q. Did you understand that there was a war
13 between the Los Carnales and the SNM Gang?

14 A. No.

15 Q. And so by providing that information to the
16 gang, are you aware that you were helping to help
17 them locate their enemies for the purpose of
18 assaulting them, or worse?

19 A. No.

20 Q. So did you know any of that before you got
21 put on the stand today?

22 A. No.

23 THE COURT: Mr. Castellano, why don't we
24 take a 15-minute break here.

25 MR. CASTELLANO: Yes, sir.

1 THE COURT: And we'll come back in and work
2 through the lunch hour.

3 Tomorrow I've got a judges' meeting that's
4 right about now till about 1:15. I'm not sure I'm
5 going to stay for all of it. But you don't get your
6 late lunch tomorrow. So you'll have to take a normal
7 lunch tomorrow.

8 All right. We'll be in recess about 15
9 minutes. And then today we'll work through and take
10 a late lunch. All rise.

11 (The jury left the courtroom.)

12 THE COURT: Do you think it would be
13 appropriate for me to tell Mr. Gordon that he might
14 want to use this 15 minutes to call Mr. Crutchfield
15 and talk to him?

16 MR. CASTELLANO: Can we have the discussion
17 without the witness in the room? I don't want to
18 influence any of his decisions.

19 THE COURT: Why don't you step outside
20 quickly, Mr. Gordon.

21 MR. CASTELLANO: I don't know --

22 THE WITNESS: You guys made me come up
23 here. I didn't want to come up here. You guys
24 threatened me to come up here, if I didn't.

25 (Mr. Gordon left the courtroom.)

1 MR. CASTELLANO: Your Honor, I'm not happy
2 about this, that we're in this situation. It's not
3 Mr. Gordon's fault. I think he should be calling his
4 attorney at this point. But now we're kind of stuck
5 with the situation and I've got to deal with it.

6 THE COURT: Well, Ms. Bevel, why don't
7 you -- any disagreement from the defendants?

8 MR. CASTLE: Judge, I think he just -- I
9 think your comments were heard by him, and I think he
10 knows what to do at this point.

11 THE COURT: Well, why don't you step out
12 and tell him I think it would be a good idea if he
13 just called Mr. Crutchfield during the break.

14 MR. CASTLE: Just so the record is clear,
15 Your Honor, we gave Mr. Crutchfield all of
16 Mr. Gordon's reports so that he would know what he
17 had said in the past, and what he was going to be
18 questioned about, so he wasn't coming in blind when
19 he advised his client.

20 EXCERPT 1 CONCLUDED

21

22

GORDON EXCERPT 2

23

24 THE COURT: Do we have a witness?

25 MR. COOPER: Yes, Your Honor, we do.

1 THE COURT: Everything okay?

2 MR. COOPER: Everything is good. He talked
3 to his lawyer.

4 THE COURT: All right. Do you want to tell
5 him to come on in then. All rise.

6 (The jury entered the courtroom.)

7 THE COURT: All right. Mr. Gordon, I'll
8 remind you that you're still under oath. If you want
9 to return to the witness box.

10 Mr. Castellano, if you wish to continue
11 your cross-examination of Mr. Gordon, you may do so
12 at this time.

13 MR. CASTELLANO: Yes, sir, thank you.

14 THE COURT: Mr. Castellano.

15 BY MR. CASTELLANO:

16 Q. Mr. Gordon, when we took the break, you
17 seemed a little upset when you got off the stand and
18 you mentioned something about threats. I want to ask
19 you about that. What were you referring to, sir?

20 A. I did not want to be here today.

21 Q. And you're here because you were
22 subpoenaed; is that correct?

23 A. That's correct.

24 Q. Now, how did you get here today? Tell us
25 about who you talked to and how you got here?

1 A. Sure. So do we go back to the FBI or
2 where?

3 Q. In terms of the defense attorneys, who
4 talked to you about coming to testify?

5 A. Sure. So several months ago -- I say
6 several months ago, shit, I don't know -- pardon my
7 language -- maybe a few weeks ago, a month ago or
8 something, they contacted me, an investigator. I
9 refused to talk with them. I told them they needed
10 to contact my attorney, Mr. Crutchfield. They did
11 so, and they set up a conference call, and I talked
12 with them over the phone.

13 Q. What did you think, from your conversations
14 with them, your testimony would be about today?

15 A. I made it clear to them I didn't want to
16 testify. I didn't want to come up here and do this.
17 Pretty much I was under the assumption I wouldn't
18 have to. Of course, here I am. The U.S. Marshal
19 showed up with a subpoena, and here I am.

20 Q. And what did they tell you they would be
21 asking you about when you took the stand?

22 A. About this.

23 MR. COOPER: Your Honor, hearsay --

24 THE COURT: Well, I think these are just --

25 MR. COOPER: -- out-of-court statements.

1 THE COURT: I'll sustain that.

2 MR. CASTELLANO: I would also submit as a
3 statement by a party opponent, Your Honor.

4 THE COURT: Okay. Overruled.

5 Q. Tell us about the conversation, please, in
6 terms of what they told you why you would be here?

7 A. On the phone they didn't tell me that I was
8 going to be here for sure. Today when I show up they
9 tell me that they just want to talk with me about
10 what I had discussed with them over the phone.

11 Q. Which was what?

12 A. Which was about the SNM.

13 Q. And did you understand the questions that
14 were going to be asked of you once you hit the stand
15 in terms of things you did for the SNM?

16 A. I understood the things that were here,
17 that they went over, and said that these were
18 questions that they would be asking me, yes.

19 Q. And for the record since we're taking it
20 down, when you said "here," you held up a report; is
21 that correct?

22 A. Yes, sir.

23 Q. It's a report of your prior statements to
24 corrections officials?

25 A. To the FBI.

1 Q. I told you I wasn't going to beat you up
2 because I understand the situation you're in right
3 now. But I do want to ask you about one more
4 incident you discussed previously with the clocks.
5 Now, when it came to the clocks, that wasn't a small
6 amount of money, was it?

7 A. The clocks -- what would happen, it would
8 be anywhere between -- just all depends. Sometimes
9 it would be a few hundred dollars; sometimes it may
10 be 4- or 500. It just all depend. I didn't work in
11 the hobby shop.

12 Q. I think, when you added it up at some
13 point, was it over \$30,000 that you thought had been
14 hidden in the clocks?

15 A. Possibly, over a long period of time. But
16 not only when I was involved. Other people were
17 involved.

18 Q. Right. So if you totaled that money, that
19 was probably over \$30,000 that the SNM had produced
20 through probably illegal means?

21 A. Oh, definitely. Oh, yeah, definitely.

22 Q. Including drug trafficking?

23 A. Very possible, yeah.

24 Q. And I mean, they're probably the worst gang
25 in prison, wouldn't you say?

1 A. Definitely.

2 Q. And earlier you said that they treated you
3 with respect. But that wasn't quite accurate, was
4 it?

5 A. No. He's referring to the beginning.

6 Q. And at some point some member of the SNM
7 actually tattooed you; is that correct?

8 A. Correct.

9 Q. And what did that tattoo say?

10 A. I was their property.

11 Q. And where was that tattoo placed?

12 A. On my butt.

13 Q. And since that time, is it fair to say you
14 had that covered up?

15 A. Correct.

16 Q. And I take it you didn't particularly
17 appreciate the SNM doing that to you, and treating
18 you as a piece of property? That's accurate, isn't
19 it?

20 A. (Witness nods.)

21 Q. And for the record, I'll just indicate
22 you're nodding yes.

23 Like I said, I'm not going to beat you up
24 much more about those things. But I do want to ask
25 you about some other important things, okay,

1 Mr. Gordon?

2 A. Um-hum.

3 Q. Did you know who Billy Garcia was?

4 A. I knew him as Wild Bill. Never met him
5 before.

6 Q. What did you know about him because of your
7 relationship with the SNM?

8 A. I always heard that he was the shot --

9 MR. COOPER: Objection, Your Honor,
10 hearsay.

11 THE COURT: Well, if he knows from his
12 association with the gang. If it's just what he was
13 told, then -- I think probably we need to sort out
14 his knowledge, so see if you can lay some foundation.

15 MR. CASTELLANO: Sure, Your Honor.

16 Q. So you did certain things for the gang; is
17 that true?

18 A. I had to do certain things for the gang,
19 correct.

20 Q. And so for you in prison that was kind of
21 the way you could survive in prison, right, was doing
22 things for the SNM?

23 A. You do know they gang raped me when I first
24 went in, and used a broom on my rectum, you know
25 that?

1 Q. I do, sir. I wasn't going to ask you
2 because I know that is a sensitive topic. So what
3 I'm saying is the things you did for the gang were
4 things you did to survive in prison, right?

5 A. Um-hum.

6 Q. So part of that was learning about the
7 structure of the SNM. You served as their paralegal?

8 A. Um-hum.

9 Q. You knew who the leaders were?

10 A. Yes, sir.

11 Q. You knew who some of the members were?

12 A. Yes, sir.

13 Q. From the lists that were generated, you
14 knew who some of their enemies were.

15 A. (Witness nods.)

16 Q. So through your association, by essentially
17 working for the FBI -- working for the SNM, let's get
18 our letters correct here -- you knew who Billy Garcia
19 was?

20 A. I knew that he was the jefe. If you told
21 me right now to point him out in this courtroom, I
22 wouldn't be able to do so.

23 Q. I'm not going to ask you to point out
24 anybody because you probably don't want to do that
25 either, I take it, right?

1 A. Correct.

2 Q. I'm not going to ask you to do that. But
3 you knew him to be a shot caller and a leader in the
4 SNM?

5 A. Correct.

6 Q. And when it came to the SNM even at
7 Southern when you were there, when one leader left,
8 another leader would take that person's place; is
9 that fair to say?

10 A. Fair to say, yes, sir.

11 Q. That was something you experienced when
12 Lino G left the facility?

13 A. Correct.

14 Q. And someone else took his place?

15 A. Correct. They exchanged the keys.

16 Q. Right. And actually you're familiar with
17 the term; somebody would be a keyholder, right?

18 A. Correct.

19 Q. So you knew that Leroy Lucero was leaving
20 prison soon?

21 A. Correct.

22 Q. And after he left, that meant somebody else
23 was going to have to take his leadership position?

24 A. That is correct.

25 Q. And so if someone like Billy Garcia arrived

1 at the facility, he would be the next person in line?

2 A. Oh, definitely.

3 Q. Definitely, right, he would be the
4 keyholder?

5 A. Correct.

6 Q. Let me ask you about some things, because
7 certain things happened after you left the facility.
8 Okay?

9 I'm going to show you your location
10 history. I'm going to show you Government's Exhibits
11 83 and Exhibit 880. Okay, sir, you can either look
12 up here on the screen or on the monitor next to you.
13 And I think it's on the third page of your location
14 history.

15 Okay. Now, you testified earlier because
16 of things that happened at the facility, you were
17 moved to the Central New Mexico Correctional Facility
18 on March 8 of 2001. Does that sound about right?

19 A. Yes.

20 Q. And looking at -- do you see at the top
21 here, Exhibit 83, that's Billy Garcia's location
22 history? Do you see that he actually arrived at the
23 facility the day that you left?

24 A. Right. I've never met him before.

25 Q. Right. And so you didn't even know that

1 Billy Garcia was arriving at the facility the day
2 that you left?

3 A. No.

4 Q. And so once you left the facility, you
5 didn't know what was going on over there; correct?

6 A. No. Just kites that would come back and
7 forth.

8 Q. And so you had no personal knowledge about
9 any meetings that took place after you left the
10 facility?

11 A. No, sir.

12 Q. And so after you left the facility, you
13 weren't aware that Billy Garcia asked Leonard Lujan
14 to put together some hit teams to kill Looney and
15 Pancho?

16 A. No, sir.

17 MR. COOPER: Objection, Your Honor,
18 hearsay.

19 A. I was not.

20 THE COURT: Well, I think he's going to say
21 no, so he doesn't know anything of this.

22 MR. CASTELLANO: I agree, Your Honor.
23 These are questions to establish that he didn't know
24 things.

25 A. I wasn't there.

1 Q. Right. So you weren't there, so you didn't
2 know what happened after you left?

3 A. No, sir.

4 Q. So you wouldn't have known about a meeting
5 between Billy Garcia and Leonard Lujan, right?

6 A. No, sir.

7 Q. And you wouldn't have known that Billy
8 Garcia ordered Leonard Lujan to put two hit teams
9 together?

10 MR. COOPER: Objection, Your Honor,
11 hearsay.

12 THE COURT: Well, I think the answer to all
13 this is no, so it's not coming in for the truth of
14 the matter.

15 MR. COOPER: It's not coming in, then I
16 would object to the form of the question.

17 THE COURT: Well, it's cross-examination.
18 I think I'll let him establish that he doesn't know
19 any of this, very briefly, and then we need to move
20 on.

21 Q. So you wouldn't know about a meeting where
22 Billy Garcia ordered Leonard Lujan to put two hit
23 teams together to kill those two men; you wouldn't
24 know that, right?

25 A. No, sir.

1 Q. Because you weren't there?

2 A. I wasn't.

3 Q. And you wouldn't know about the meetings
4 where certain people were picked to do these murders?

5 A. No, sir.

6 Q. And going back to Leroy Lucero, he actually
7 told people not to hit Looney and Pancho until after
8 he left the facility?

9 MR. COOPER: Your Honor, may we approach?

10 THE COURT: I think probably you made the
11 point enough. So let's move on. He doesn't know
12 these things.

13 MR. CASTELLANO: Actually, he testified to
14 that on direct examination regarding the timing of
15 the hit from Leroy Lucero. That's what I'm getting
16 at.

17 A. Correct.

18 Q. Right. So Leroy Lucero said he was not to
19 be touched until after he left the facility?

20 A. Yes.

21 Q. And were you aware that Leroy Lucero was
22 actually protecting Mr. Looney because he actually
23 brought him into the gang?

24 A. No, I was not aware of that.

25 Q. You didn't know that?

1 A. No.

2 Q. So you told us about things that happened
3 before you left the facility, but you don't know what
4 happened after you left?

5 A. Not at the Southern New Mexico Correctional
6 Facility, no. Until later.

7 Q. So when it comes to leadership at that
8 point, when you were there, T-Bone and Lino G left
9 the facility?

10 A. Correct.

11 Q. So they were not the leaders?

12 A. Correct.

13 Q. And you know Leroy Lucero was leaving the
14 facility, so he wouldn't be the leader, leaving Billy
15 Garcia?

16 A. Correct.

17 MR. CASTELLANO: No further questions, Your
18 Honor.

19 THE COURT: Thank you, Mr. Castellano.

20 Before Mr. Cooper redirect, any other
21 defendant have any redirect? All right. Did you
22 have something, Mr. Blackburn?

23 MR. BLACKBURN: Yes, Your Honor -- no, Your
24 Honor.

25 THE COURT: Thank you, Mr. Blackburn. Mr.

1 Sindel.

2 REDIRECT EXAMINATION

3 BY MR. SINDEL:

4 Q. Good afternoon.

5 A. How are you doing, sir?

6 Q. I represent Joe Gallegos. Did you ever
7 know Joe Gallegos to be in any sense a leader of the
8 SNM?

9 A. Did not, no.

10 Q. Did you know him to participate either as a
11 member of the tabla or as a member of the hierarchy
12 in the SNM?

13 A. No.

14 Q. Did you know him to be in a position of
15 making decisions for the SNM?

16 A. No.

17 Q. And I also believe that you had testified
18 at one point in time that you -- many of the things
19 you ended up doing was because you were afraid?

20 A. Correct.

21 Q. Afraid for your life?

22 A. Correct.

23 Q. Did you really even know Joe Gallegos?

24 A. I knew him around.

25 Q. To see him, you would recognize him; to

1 talk with him, not too much?

2 A. Probably not.

3 MR. SINDEL: Thank you. That's all I have.

4 THE COURT: Thank you, Mr. Sindel.

5 Anyone else? All right. Mr. Cooper.

6 MR. COOPER: Thank you, Your Honor.

7 THE COURT: Mr. Cooper.

8 REDIRECT EXAMINATION

9 BY MR. COOPER:

10 Q. Mr. Gordon, just a moment ago Mr.
11 Castellano asked you about the assaults. And you
12 talked about that briefly. I had asked one question
13 before we broke.

14 A. Um-hum.

15 Q. None of the men in this room participated
16 in any of those assaults, did they?

17 A. Absolutely not.

18 Q. Mr. Gordon, on March the 8th, 2011 (sic),
19 after you informed the administration -- yeah, 2001,
20 okay. So on March the 8th, 2001, you went to Central
21 New Mexico Correctional Facility, right?

22 A. Yes, sir, that's correct.

23 Q. And you went there after you had informed
24 the administration that there were two hits on
25 Donovan Vargas and another individual that you

1 couldn't remember?

2 A. That is correct.

3 Q. When you got to Central, can you tell me
4 where you were housed and what happened from that
5 point on?

6 A. Sure. I was housed at the Central New
7 Mexico Correctional Facility. And John Shanks was
8 the Deputy Director of Corrections at that time when
9 Robert J. Perry was the Secretary of Corrections.
10 And I was moved to the Mental Health Treatment
11 Center, and I was held at the Mental Health Treatment
12 Center for a period of time.

13 Q. Now, where was Mental Health Treatment
14 Center located back in those days?

15 A. Right, it's at the Central New Mexico
16 Correctional Facility, but it's segregated off.

17 Q. In a separate location from the rest of --

18 A. Correct, Central, mentally ill.

19 MR. CASTELLANO: Objection, Your Honor, as
20 beyond cross-examination.

21 MR. COOPER: Your Honor, it is not beyond
22 cross-examination. I'm going to tie this up.

23 THE COURT: I think it's close enough.
24 Overruled.

25 Q. So you went to the mental health unit?

1 A. Sure.

2 Q. And it is in a facility on the grounds of
3 Central New Mexico Correctional Facility?

4 A. Yes, sir, that's correct.

5 Q. And how long were you there, if you recall?

6 A. I was there for, I don't know, maybe for a
7 few months.

8 Q. Okay. I'd like you to take a look at the
9 screen. We are looking at Government's Exhibit 880.
10 This is the offender physical location history for
11 you. Do you see the entry, page 3? So you see where
12 you went to Central on March the 8th; correct?

13 A. Correct.

14 Q. And it appears you left Southern at 2:13 in
15 the afternoon, and you arrived -- or no, no, no, no,
16 no -- you arrived at 5:53. That is -- you left
17 Southern at 2:13 in the morning, didn't you?

18 A. I believe so. They got me out of there.

19 Q. In the middle of the night?

20 A. In the middle of the night.

21 Q. And you arrived just before breakfast at
22 Southern (sic) right?

23 A. Possibly, yes, sir.

24 Q. 5:53. And you went to unit CJ1 cell G1108;
25 correct?

1 A. Correct.

2 Q. Do you remember what -- and you were there
3 for six days. Was that like an orientation or was
4 that actually the mental health unit?

5 A. No -- let's see, I'm trying to remember
6 what units were the mental health at that time. No,
7 that was orientation, yeah.

8 Q. Okay. And --

9 A. I believe it was orientation. I don't want
10 to lie. I don't remember. I don't know.

11 Q. You don't remember. And just above those
12 two CJIs, there is something that says INFIRM. Is
13 that an infirmary? Do you remember?

14 A. Possibly.

15 Q. Okay. LTF; do you remember what LTF would
16 stand for?

17 A. I think it's long-term facility, the
18 long-term care unit. Maybe. I don't know.

19 Q. What is a long-term facility?

20 A. Long-term care unit is actually the
21 hospital for the Department of Corrections. It's a
22 hospital within the prison system.

23 Q. Okay. And then the next two entries are
24 CJ1. Do you have any recollection as to what that
25 was all about?

1 A. I don't.

2 Q. And we are now -- that gets us to April 4,
3 2001. Can we go back to page 2, please. So we're
4 now down, Mr. Gordon, at the bottom of the page. It
5 appears that you went to Guadalupe County
6 Correctional Facility?

7 A. Yes.

8 Q. That was one day. Do you recall going
9 there?

10 A. I do.

11 Q. Do you know why you went there?

12 A. They accidentally shipped me there. The
13 Department of Corrections makes a lot of mistakes.
14 That's why a lot of people get hurt. They
15 accidentally shipped me there. And got over there
16 and the warden realized I had been shipped
17 accidentally, and they got me back.

18 Q. The next entry is MHU on April the 5th,
19 2001. Do you remember what that was about? You were
20 only there for a couple of minutes.

21 A. I don't. I don't remember if that's --

22 Q. And that was probably at Guadalupe, because
23 the next entry above that there is a G in front of
24 it, and the entry above that there is a G, and then
25 the entry above that on 4/9 says, "Central New Mexico

1 Correctional Facility"; correct?

2 A. Correct.

3 Q. So five days later you get sent back to
4 Central; correct?

5 A. That is correct.

6 Q. You went to St. Joseph Hospital on June 29.
7 Do you recall that?

8 A. Well, I don't think I went to the hospital,
9 to be honest with you. That's lying. I mean, that's
10 not the truth.

11 Q. What -- did you go someplace that day?

12 A. Yeah. I was at Central New Mexico
13 Correctional Facility. And STIU, STG, a sergeant
14 come and got me from my cell, told me that I needed
15 to go to the infirmary. Went to the infirmary. Once
16 I got to the infirmary, there was STIU and STG
17 Security Threat Group there. And they advised me
18 that I was being taken to the hospital. They
19 handcuffed me, put me in the back of a car, and we
20 took off from Los Lunas. They opened the security
21 gates, we took off. I do have heart problems, so I'm
22 assuming that I'm really going to the hospital.

23 We get down to Los Lunas, downtown Los
24 Lunas, out by the interstate going into Albuquerque.
25 And they pulled over at a convenience store. We wait

1 at the convenience store for about 10 or 15 minutes.

2 And I asked, "What's going on?"

3 None of my business, just enjoy the ride.

4 A few minutes later, a Grand Am pulls up. A Hispanic
5 guy --

6 Q. A what?

7 A. A Grand Am, a little car, pulls up. This
8 big old biker looking dude gets out, with a bandanna,
9 all tatted down. And then another gentleman gets
10 out. And they come over, the officer -- the STIU
11 officer gets out of the vehicle. They walk in front
12 of the car. They talk a little bit. And next thing
13 you know, they come and tell me that I'm going with
14 them.

15 Q. Okay. Did you know either of those two
16 gentlemen?

17 A. I had no idea -- well, I knew one of them
18 was -- worked with the Department of Corrections.
19 His name was Henry Telles; he was an internal
20 investigator. The other gentleman, I had no idea who
21 he was.

22 Q. And the other gentleman was the one who was
23 all tatted up?

24 A. Correct.

25 Q. And did you get in their Trans Am?

1 A. No. I was really hesitant -- or their
2 Grand Am -- no, they could tell I was starting to
3 freak out, because I was demanding to know what was
4 going on. They put me back in the STIU, the state
5 vehicle. And we followed them.

6 The big guy that's all tatted down, that
7 was wearing the bandanna, he asked me what kind of
8 Coke I liked, and what kind of drink I liked. And I
9 told him. He went in the store, he got it and he
10 came back and gave it to me.

11 And so we took off toward Albuquerque. And
12 we were following them. We ended up in a motel room,
13 which really freaked me out a little bit. They went
14 in, made sure everything was clear. And long story
15 short, next thing I know it's the FBI taking me
16 off-site to talk with me.

17 Q. And who was the FBI agent?

18 A. I don't remember his name.

19 Q. Of the people in the room, can you describe
20 him?

21 A. Sure. It was the Hispanic guy wearing the
22 bandanna.

23 Q. With the tats?

24 A. Correct. He showed me his ID and --

25 Q. Had you ever seen -- is it Captain Telles

1 at that time? Had you ever seen him before?

2 A. Sure. I'd seen him quite a bit at the
3 Southern New Mexico Correctional Facility.

4 Q. So you knew who he was?

5 A. Definitely. And that made me feel a little
6 bit more comfortable. Because I had no idea who
7 these other folks were.

8 Q. So as a result of that -- well, how long
9 were you in that -- was it a motel, hotel -- do you
10 remember where it was?

11 A. I know it was off the interstate there.
12 I'm not familiar with Albuquerque too well.

13 Q. Okay. How long were you in that room?

14 A. I want to say probably at least five or six
15 hours.

16 Q. And what were you doing in that room?

17 A. They were trying to convince me to work for
18 them. They -- I say -- you're not supposed to say
19 work for them, you're supposed to say assist them;
20 they made that clear to me, because you're not part
21 of them.

22 I remember that day they got ahold of John
23 Shanks, which was the Secretary of Corrections, got
24 ahold of him; had several people talking to me on the
25 phone.

1 Q. And at some point did you agree to
2 cooperate with the FBI and Department of Corrections?

3 A. Correct. They had convinced me that my
4 life was in danger; they really thought that my life
5 was in danger. And it was kind of contradicting,
6 because in the beginning they told me that my life
7 was in danger, there was a hit on me. But still,
8 yet, they ultimately transported me back to Southern
9 New Mexico Correctional Facility, and housed me there
10 for a period of time.

11 Q. And they don't transport you back there for
12 probably a couple of months?

13 A. Correct. We had -- yeah, correct.

14 Q. And so you leave the hotel or motel room,
15 which is really not St. Joseph Hospital, but a hotel
16 room, right?

17 A. Correct.

18 Q. The clerk and the people at prison probably
19 thought you were going to the hospital; that's
20 what -- that was the story when you left, right?

21 A. Sure. Because there was so many officers
22 that, they explained to me, that were dirty.

23 Q. So you didn't go to the hospital. You went
24 to meet with an FBI agent. Did you then have
25 occasion --

1 MR. CASTELLANO: Objection, Your Honor.
2 This is way beyond the scope of cross-examination.

3 MR. COOPER: It is not, Your Honor. They
4 talked -- he got up and threatened Mr. Gordon about
5 all of the work, or all of the activities --

6 THE COURT: I do think it's related to the
7 fact that there was some -- he left the facility, and
8 where he was in the facility. So I'll allow the
9 question. Overruled.

10 Q. So at some point in time -- and it appears
11 that it was on August 30, 2001, just a little after
12 noon, you go to the Third Judicial District Court in
13 Las Cruces. Is that a state court, Third Judicial
14 District Court?

15 Let me back up. Let me ask you this
16 question: If you're charged with a state crime in
17 Bernalillo County, you'd go to the Second Judicial
18 District Court, right?

19 A. Correct.

20 Q. And if you're charged in Santa Fe with a
21 crime, you go to the First Judicial District Court,
22 right?

23 A. That is correct, yes, sir.

24 Q. And if you're charged in Roswell, you go to
25 the Fifth Judicial District Court?

1 A. That's correct.

2 Q. If you're charged in Las Cruces, you go to
3 the Third Judicial District Court?

4 A. Dona Ana County.

5 Q. Okay. So that entry that says Third
6 District Court, Las Cruces, that's a reference to a
7 state court; correct? On the monitor, when you see
8 on August 30, 2001, the facility was led to believe
9 that you were going to the district court in Las
10 Cruces; correct?

11 A. Correct. But that --

12 Q. Did you go to the district court?

13 A. No, sir.

14 Q. Where did you go, if anywhere?

15 A. They took me to the -- I can't remember, I
16 think it was the sheriff's department that took me.
17 But they took me to the Dona Ana County Sheriff's
18 Department, the federal side, and housed me.

19 Q. Okay. And then later that day -- or did
20 you meet with anybody? Did you meet with the FBI
21 agents that day? Do you remember?

22 A. No. I believe it was the next morning they
23 started pulling me out the Dona Ana County Sheriff's
24 Department. The one specific lady who was a deputy,
25 she would come and pick me up, and she would

1 transport me to the FBI field office every day for
2 debriefing.

3 Q. Okay. On August 30, it appears that you
4 were housed at Southern New Mexico Correctional
5 Facility SJ 1, J1103. So did they bring you back to
6 Southern?

7 A. No, sir, they didn't.

8 Q. No?

9 A. Not right away.

10 Q. Not right away. What did they do?

11 A. Again, they kept me at the Dona Ana County
12 Detention Facility, the federal side, and they
13 transported me daily to this building that was
14 connected to Blockbuster, in the back. And it was
15 the FBI field office.

16 Q. Okay. How many times did you meet with the
17 FBI agent -- or I presume you met with -- who did you
18 meet with at that --

19 A. Sure. Henry Telles and the FBI agent.

20 Q. Which one?

21 A. The bandanna guy.

22 Q. The bandanna tatt guy?

23 A. Right.

24 Q. You don't remember his name?

25 A. I don't, for the life of me.

1 Q. And were they asking you to work for them?

2 A. Sure.

3 Q. Had you agreed to do so?

4 A. I finally agreed to do so.

5 Q. And what sort of assistance were you
6 rendering the FBI?

7 A. They wanted me to continue -- and they were
8 going to place me back at Southern New Mexico
9 Correctional Facility. They wanted me to continue to
10 do everything that I had done in the past.

11 Q. Like what?

12 A. Gather information. They didn't want me to
13 stop doing anything. They told me that they wanted
14 me to just continue, to just maintain, like I had did
15 before; nothing out of the ordinary that I hadn't
16 done, you know, prior.

17 Q. Did you get your job back at the library?

18 A. I did. I sure did.

19 Q. And --

20 A. By that time, they had already charged
21 Geraldine Martinez with a federal crime, and she was
22 no longer there in their employ.

23 Q. And Geraldine Martinez again was the
24 librarian --

25 A. Was my boss.

1 Q. -- who was your boss?

2 A. Correct.

3 Q. So you had a new boss. You continued to
4 work in the library?

5 A. Correct.

6 Q. Did you continue to try to obtain
7 information from SNM members, and then relay that
8 information on to the FBI agents?

9 A. Correct. They had me to do so. Also, you
10 have to understand at this point the homicides had
11 already happened --

12 Q. Sure.

13 A. -- with Pancho and Looney. So Robert
14 Perry, the Secretary of Corrections, had ordered
15 everything changed at Southern New Mexico
16 Correctional Facility. So a lot of people were
17 segregated. It wasn't like it was prior to me
18 leaving. It was a lot more secure; restricted
19 movement, so on and so forth.

20 Q. And did you continue to work -- for how
21 long did you continue to work for or assist the FBI?

22 A. Over a year, I believe.

23 MR. COOPER: I don't have any further
24 questions, Your Honor. Thank you.

25 THE COURT: Thank you, Mr. Cooper.

1 Did you have something else, Mr.
2 Castellano?

3 MR. CASTELLANO: I do, Your Honor, from
4 that examination.

5 THE COURT: Mr. Castellano.

6 MR. CASTELLANO: Thank you, sir.

7 RECROSS-EXAMINATION

8 BY MR. CASTELLANO:

9 Q. Mr. Gordon, it's me again.

10 A. Yes.

11 Q. Not beating you up again.

12 So on -- regarding all the statements you
13 gave, you gave a number of statements to FBI, which
14 were in reports; correct?

15 A. Correct.

16 Q. So some of the reports you had you were
17 looking at this morning?

18 A. Correct.

19 Q. And you have some of those in front of you?

20 A. Um-hum.

21 Q. Now, on March 28th of 2001, you also gave a
22 statement at Central New Mexico Correctional
23 Facility. Do you remember that? If you don't, I can
24 show you the report.

25 A. Possibly, yes. To STIU?

1 Q. Yes.

2 A. Correct.

3 Q. So at that time, that was even before you
4 were working with the FBI; is that fair to say?

5 A. I believe they had already contacted me by
6 phone. Wait, no, no, no, no, no, no. I was trying
7 to remember. That was before, correct, that was
8 before, um-hum.

9 Q. That was even before then. And at that
10 time you gave a list of people who were going to
11 carry out -- who were supposed to be carrying out for
12 Leroy Lucero before you left the facility, right?

13 A. Correct.

14 Q. And one of the people who was supposed to
15 be carrying out the hits was Christopher Chavez?

16 A. Correct.

17 MR. CASTELLANO: Thank you. I pass the
18 witness, Your Honor.

19 THE COURT: Thank you, Mr. Castellano.

20 Anyone else have redirect? Mr. Cooper?
21 Anyone else?

22 MR. COOPER: No, Your Honor. Thank you.

23 THE COURT: All right. Mr. Gordon, you may
24 step down. Is there any reason that Mr. Gordon
25 cannot be excused from the proceedings? Mr. Cooper?

1 Mr. Burke?

2 MR. COOPER: No, Your Honor. Thank you.

3 MR. SOLIS: May we have him held for
4 possible examination, Your Honor?

5 THE COURT: Do you want to keep him under
6 subpoena?

7 MR. SOLIS: Yes.

8 THE COURT: All right. So you're able to
9 leave the courthouse, but you're still subject to
10 being re-called. So you'll have to stay outside of
11 the courtroom until you are re-called. Thank you for
12 your testimony.

13 EXCERPT 2 CONCLUDED

14

15

16

GORDON EXCERPT 3

17

18 THE COURT: All right. Mr. Gordon, if
19 you'll return to the witness box. Mr. Gordon, I'll
20 remind you that you're still under oath.

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. Mr. Solis.

23 MR. SOLIS: May it please the Court, Your
24 Honor?

25 THE COURT: Mr. Solis.

1 MR. SOLIS: Defendant Chavez did not call
2 this witness. This witness had incriminating
3 statements to make regarding Mr. Chavez. I'd like to
4 ask permission to proceed as a hostile witness
5 examination, Your Honor.

6 THE COURT: If you're calling him, you can
7 do so.

8 MR. SOLIS: Thank you, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. SOLIS:

11 Q. Mr. Gordon, how are you, sir?

12 A. Good. And you, sir?

13 Q. I'm good.

14 I represent Mr. Chavez. That's that man
15 over there.

16 A. Correct.

17 Q. Mr. Chavez, Chris, stand up. That's who I
18 represent. I want you and everyone to know that's
19 who I represent. Do you understand that?

20 A. Yes.

21 Q. Okay. Thank you.

22 So you made some statements regarding
23 Mr. Chavez there at the end. And so I'm going to
24 make reference in questioning you regarding the
25 statements you made initially, and then the

1 statements that were made -- rather the questions
2 asked of you and statements made when there was some
3 cross-examination by the Government. Do you
4 understand that?

5 A. Correct.

6 Q. Okay. So I'll make reference just to those
7 statements, those you made today and those you made
8 in the past, which were again referenced in posing
9 questions to you from both sides today. Do you
10 follow me?

11 A. Yes.

12 Q. All right. Before I do that, though, I
13 want to get into a little bit of background about
14 you.

15 You were telling us -- well, first off,
16 you're acquainted with Christopher Chavez?

17 A. I've seen him around in the prison, yes.

18 Q. How often?

19 A. Here and there.

20 Q. Okay. And any problematic issues? Any
21 writs, anything like that?

22 A. No, not at all.

23 Q. Now, if there were issues with discipline
24 or conduct, you'd know because you're at the law
25 library; is that right?

1 A. I would. But it's been so long ago. I
2 don't think I ever assisted him with anything that I
3 can think of.

4 Q. All right. Now, your stint at the prison
5 was as a result of a felony conviction; is that true?

6 A. That is correct.

7 Q. And that conviction was for embezzlement,
8 and I think theft; is that true?

9 A. It was for fraud.

10 Q. And embezzlement?

11 A. There was no embezzlement charge.

12 Q. Fraud, that's a really higher grade, a
13 really high-end theft pretty much, isn't it, sir?

14 A. Correct.

15 Q. All right. Now, are you employed since
16 then?

17 A. Yes, I am.

18 Q. And what type of work do you do?

19 MR. CASTELLANO: I object to that, Your
20 Honor.

21 MR. SOLIS: I'm not getting into the name
22 or where or address, just what type of work he does.

23 THE COURT: Just generally -- you don't
24 have to give the name of your employer or business or
25 location or anything like that, just generally what

1 do you do?

2 A. I own my own business.

3 Q. Okay. You never had to fill out an
4 application for employment since your conviction?

5 A. Correct, I have.

6 Q. You have. And of course, those
7 applications require that you answer the question:
8 Have you been convicted of a felony or a theft in the
9 past? That's been asked of you, hasn't it?

10 A. Correct.

11 Q. And you answered yes, right?

12 A. I have to, correct.

13 Q. And because of that, you had to go
14 self-employed, because you couldn't get hired, pretty
15 much?

16 A. That's not correct.

17 Q. Okay. Now, you understand why employers
18 ask that question?

19 A. Sure. They want to know your background.

20 Q. Well, but they ask specifically theft and a
21 felony conviction; do you understand that?

22 A. Correct.

23 Q. All right. And so do you know what a crime
24 of moral turpitude is or just the definition of moral
25 turpitude?

1 A. No.

2 Q. You don't know.

3 MR. SOLIS: Your Honor, I'd like the Court
4 to take judicial notice -- I think it's 201, Your
5 Honor -- and we ask the Court to take judicial notice
6 of the definition of moral turpitude as it's
7 recognized across this country in courts of law, and
8 other legal arenas, Your Honor. I know I cannot
9 admit it as an exhibit, but I'd like to publish it to
10 the jury.

11 MR. COOPER: Your Honor, may we approach?

12 THE COURT: You may.

13 (The following proceedings were held at the
14 bench.)

15 MR. BECK: I think that's the evidentiary
16 rule for judicial notice, but there are requirements
17 of what the Court can take judicial notice of, and a
18 dictionary isn't one of them.

19 MR. SOLIS: It's a factual dispute. In
20 other words, if there is no dispute that's the
21 definition, but it's a fact that's the definition. I
22 think the jury should know what it is about.

23 MR. CASTLE: Moral turpitude is not
24 relevant.

25 MR. SOLIS: It is relevant because it goes

1 to his credibility, it goes to his character, it goes
2 to impeachment. So I'm going to do all those three.

3 MR. CASTLE: He can't state the facts of
4 the conviction.

5 MR. SOLIS: I'm not stating the facts of
6 conviction. I'm going to the generic of moral
7 turpitude.

8 THE COURT: For what purpose?

9 MR. SOLIS: To further impeach his
10 character.

11 THE COURT: Why are we having a debate on
12 the definition of moral turpitude? What does that
13 have to do with anything?

14 MR. SOLIS: I think it's impactive to the
15 jury. The jury sees why the people who are convicted
16 of theft, which was admitted, a felony, these are the
17 types of crimes that society tends to hold at arm's
18 length.

19 THE COURT: Exclude it like I would any
20 other evidence. I don't see any relevance. And I'm
21 having trouble seeing the relevance of the definition
22 of moral turpitude, given that you've gotten the
23 conviction out, and the basic description of it.
24 He's admitted that it can create problems in the job
25 area.

1 MR. SOLIS: Thank you, Your Honor.

2 THE COURT: I think this is kind of a 401,
3 402, or 403 issue. So even if I could take judicial
4 notice, I don't think that the fact is relevant.

5 MR. SOLIS: You mean more probative -- I'm
6 not sure --

7 THE COURT: I don't understand what the
8 definition of moral turpitude, what its relevance is.

9 MR. SOLIS: I'm trying to explain it. If
10 the Court is not satisfied, I'll just move on.

11 MR. DAVIDSON: Can I bring up something
12 that isn't relevant to this. After an individual
13 defendant calls a witness in, you can ask if other
14 defendants want to do direct, or I think since we're
15 all individual defendants and different teams, I'm
16 worried that that might give the impression to the
17 jury that we're all one team. And I think another
18 witness, another team were to cross-examine or
19 question a witness called by another defendant, that
20 would be cross-examination. I just wonder whether
21 you might want to give an instruction to the jury or
22 tell the jury that we're all individual. I'm just
23 worried that they might get the impression --

24 THE COURT: I'm certainly loading up the
25 final instruction with that. If you want me to say

1 something different when I call on the attorneys, I
2 don't mind using a different phrase.

3 MR. SOLIS: We were pretty reamed this
4 morning, so I think it's pretty clear to the jury
5 that we're not on one team.

6 THE COURT: If you got something else you
7 want me to say or draft out an instruction, I'll
8 certainly entertain both of those.

9 MR. DAVIDSON: I'll draft something.

10 THE COURT: Maybe I won't use the phrase
11 direct or cross. Does anybody else have any
12 questions? Does that work?

13 MR. DAVIDSON: That would be better.

14 THE COURT: If you want something else --

15 MR. DAVIDSON: I just don't want a false
16 impression.

17 THE COURT: We'll work hard on that on the
18 final instructions.

19 (The following proceedings were held in
20 open court.)

21 THE COURT: Mr. Solis.

22 MR. SOLIS: Thank you, Your Honor.

23 BY MR. SOLIS:

24 Q. So I believe you said embezzlement, right?

25 A. No. You said embezzlement.

1 Q. And it was fraud, I beg your pardon. It's
2 just the other way around. So you agree with me that
3 would involve a level of deception, dishonesty, that
4 kind of thing?

5 A. Yes.

6 Q. Right. And you mentioned that you had some
7 affiliation, some easy affiliation with the members
8 of the SNM; is that true?

9 A. That is correct.

10 Q. And it indicates to me that you have had
11 actually little problems with them, except for the
12 one instance that was discussed this morning?

13 A. Correct.

14 Q. And did some of their methods rub off on
15 you, so to speak?

16 A. Absolutely not.

17 Q. No? Okay. So you came with that deception
18 already? You came with that inherent type of
19 dishonesty and deception already into that prison?

20 A. Absolutely not.

21 Q. So this morning you said that you were
22 present when Mr. Garza and Mr. Castillo were
23 green-lighted, to shorten the phrase, I guess, or to
24 paraphrase what was said this morning. Do you
25 remember that?

1 A. I plead the Fifth from this point on.

2 Q. You plead the Fifth? You've already
3 testified. You're going to have to answer the
4 question. Or did they not tell you that? Sir?

5 A. I don't want to say anything further.

6 Q. Well, see, here's the thing: You can't
7 come in here, implicate and incriminate my client,
8 and then hem up. Didn't they tell you you were going
9 to get questioned on this?

10 A. Well, this is the thing: You guys take me
11 out, you guys have somebody out there coaching me on
12 what to come in here and say --

13 Q. I've never spoken to you. "You guys" is
14 someone else.

15 A. You came out a while ago, and you told me:
16 Do you not know the difference between Nick Chavez
17 and Chris Chavez.

18 Q. And you did tell --

19 A. And the attorney over there sat next to him
20 out there.

21 Q. And you did tell me, sir, you did tell me.
22 Believe me, it's of no moment here, it wouldn't help
23 us at all.

24 All right. So is that true, then? You
25 said you were present -- so you just happened to be

1 present when Mr. Garza and Mr. Castillo were
2 green-lighted; is that true? You just happened to be
3 present?

4 A. Do I have to answer that question?

5 Q. You do. You do.

6 THE COURT: Well, I think that if you said
7 it this morning, then you should answer the question.
8 If there is something different or more detailed
9 about the answer you're about to give, then --

10 A. What I said this morning is true and
11 correct.

12 MR. SOLIS: All right. Can I approach the
13 easel, Your Honor?

14 THE COURT: You may.

15 Q. This morning you said present were: Eugene
16 Martinez, is what you said; Smurf -- we all remember
17 Leroy Lucero -- you said Spider, who is Augustine
18 Saenz. Do you remember that?

19 A. Yes, correct.

20 Q. Augustine Saenz. Alex Munoz, also known as
21 Chiple. And Jesse Ibarra. Do you remember that?

22 A. I said I could not remember if Jesse was
23 present.

24 Q. You did mention his name, right?

25 A. Right.

1 Q. You said they were present when this green
2 light was issued -- rather you were present, you just
3 happened to be present? Do you remember that?

4 A. Correct.

5 Q. But you said different before, haven't you,
6 sir?

7 A. It's been many years ago.

8 Q. In fact, you said that Eugene and Augustine
9 were actually not on that panel, or on that committee
10 that green-lighted; that they were actually going to
11 be hit?

12 A. At one point they were going to be hit.

13 Q. So but this is just back to back. At one
14 point they're on the committee, and next, they're
15 going to be hit. Now, it's Eugene and Augustine
16 Spider, who are now going to be hit? You have them
17 on the panel, and then you have them they're going to
18 be hit?

19 A. Do you understand that there are people who
20 leave? One shot caller leaves, another shot caller
21 comes on. Things change.

22 Q. Your testimony is that both these
23 individuals are shot callers; is that it?

24 A. No, I'm telling you that every time a shot
25 caller comes on or someone new comes on, things

1 change.

2 Q. How often were you associated, or how often
3 did you have contact with Augustine Saenz?

4 A. Quite a bit.

5 Q. How much is quite a bit?

6 A. We lived in the same pod together for a
7 little while.

8 Q. How about with Mr. Martin Chacon?

9 A. Chacon, I don't think I ever lived in the
10 same pod with him.

11 Q. Did you have contact with him?

12 A. Yes.

13 Q. Was Mr. August Saenz someone you would
14 consider a right-hand man to anybody?

15 A. I heard he was, hearsay.

16 Q. Who --

17 A. Did I never seen him carry out anything?
18 No.

19 Q. How about Ray Molina? Was he anybody's
20 right-hand man?

21 MR. CASTELLANO: Objection, calls for
22 hearsay.

23 Q. If you know.

24 THE COURT: If he knows. He knows a great
25 deal about the SNM organization. So overruled.

1 A. Yes, I heard he was.

2 Q. You heard, or you knew?

3 A. I heard he was.

4 Q. Okay. In fact, a lot of what you said
5 today you didn't actually witness, you just basically
6 heard from other people; isn't that true?

7 A. Some is hearsay.

8 Q. Isn't a lot of it hearsay?

9 A. Some is hearsay, some.

10 Q. Okay. Including testimony this morning?

11 A. Some of it is what I heard, correct.

12 Q. Okay. Do you remember having spoken to the
13 FBI back in August of 2001?

14 A. Possibly.

15 Q. Do you remember that?

16 A. Possibly.

17 Q. I can't hear you.

18 A. I said possibly.

19 Q. And do you remember having spoken to the
20 FBI in September, 2001?

21 A. Possibly, if that's the date you have.

22 Q. Okay. And let's see, that's five -- and
23 well, five and six months removed from March, 2001,
24 right?

25 A. Correct.

1 Q. Okay. So the information you gave then is
2 pretty current or recent to March 2001, right?

3 A. Correct.

4 Q. And then in those interviews, in the same
5 interview you indicate that -- what I demonstrated up
6 here a little while ago -- that Eugene and Augustine
7 are on the committee to order hits, and the same
8 interview you say they're also the persons who are
9 going to be hit? Do you follow me?

10 A. Not in the same interview, I don't believe.

11 Q. Do you see that? On the committee; now you
12 say they're going to be hit. Do you think that's
13 pretty inconsistent?

14 A. Again, I will tell you, when new shot
15 callers come in, just like the new government of an
16 administration of state, everybody changes, things
17 change.

18 Q. This happened to be within five months,
19 right?

20 A. Correct.

21 Q. Right.

22 MR. SOLIS: May I have a moment, Your
23 Honor?

24 THE COURT: You may.

25 Q. In your long history and contact with the

1 SNM, you got to know a lot of the fellows over there,
2 didn't you?

3 A. Sure, I did.

4 Q. And they're like any society. Some are
5 more trustworthy than others, or untrustworthy, as it
6 were?

7 A. That's true.

8 Q. Is that true?

9 A. Yes, sir.

10 Q. And you can tell that, can't you, by the
11 offenses that they've brought to the penitentiary,
12 can't you?

13 A. Absolutely not.

14 Q. You cannot?

15 A. No.

16 Q. Okay. I'll pass the witness.

17 THE COURT: Thank you, Mr. Solis.

18 Any of the defendants have questions of
19 Mr. Gordon? Mr. Castellano, do you have
20 cross-examination of Mr. Gordon?

21 RECROSS-EXAMINATION

22 BY MR. CASTELLANO:

23 Q. Hi again, Mr. Gordon.

24 A. How are you doing, sir?

25 Q. Let me ask you just a couple of questions.

1 You mentioned kind of a change in shot callers. So
2 is it fair to say that the politics could be tricky
3 sometimes in the SNM?

4 A. Very much so.

5 Q. Right. So you might be in good standing on
6 one day, someone else comes in and it's not your day?

7 A. That is correct.

8 Q. And so at one point you indicated that the
9 administrative staff inmates believed that Leroy
10 Lucero was calling the shots; however, it was Jesse
11 Ibarra calling the shots for the SNM. Do you recall
12 that statement?

13 A. Yes, I do.

14 MR. CASTELLANO: Thank you. I have no
15 further questions, Your Honor.

16 THE COURT: Thank you, Mr. Castellano.

17 Any other defendants have questions of
18 Mr. Gordon? Mr. Solis, do you have anything further?

19 MR. SOLIS: No, Your Honor.

20 THE COURT: All right. Mr. Gordon, you may
21 step down.

22 Is there any reason Mr. Gordon cannot be
23 excused from the proceedings? Mr. Solis?

24 MR. SOLIS: No, Your Honor.

25 THE COURT: Anybody have an objection? Mr.

1 Castellano?

2 MR. CASTELLANO: No.

3 THE COURT: All right. Mr. Gordon, you're
4 excused from the proceedings. Thank you for your
5 testimony.

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SANTA FE OFFICE
119 East Marcy, Suite 110
Santa Fe, NM 87501
(505) 989-4949
FAX (505) 843-9492

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& ASSOCIATES, Inc.**
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MAIN OFFICE
201 Third NW, Suite 1630
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
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UNITED STATES OF AMERICA

DISTRICT OF NEW MEXICO

I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
Official Court Reporter for the State of New Mexico,
do hereby certify that the foregoing pages constitute
a true transcript of proceedings had before the said
Court, held in the District of New Mexico, in the
matter therein stated.

In testimony whereof, I have hereunto set my
hand on May 20, 2018.



Jennifer Bean, FAPR, RMR-RDR-CCR
Certified Realtime Reporter
United States Court Reporter
NM CCR #94
333 Lomas, Northwest
Albuquerque, New Mexico 87102
Phone: (505) 348-2283
Fax: (505) 843-9492

SANTA FE OFFICE
119 East Marcy, Suite 110
Santa Fe, NM 87501
(505) 989-4949
FAX (505) 843-9492



MAIN OFFICE
201 Third NW, Suite 1630
Albuquerque, NM 87102
(505) 843-9494
FAX (505) 843-9492
1-800-669-9492
e-mail: info@litsupport.com